

**DEKALB COUNTY**ITEM NO. **BOARD OF COMMISSIONERS**

HEARING TYPE

Action

**BUSINESS AGENDA / MINUTES****MEETING DATE:** December 14, 2010

ACTION TYPE

Ordinance

**SUBSTITUTE**

SUBJECT: Enactment of Interior Code Compliance Ordinance, Chapters 7 and 15, pertaining to code compliance certificates and for other purposes, Code of DeKalb County, Georgia

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: ☒ YES ☐ NO  
After deferralATTACHMENT: ☒ YES ☐ NoPAGES: 9INFORMATION CONTACT: Jeff Rader, Commissioner  
District 2

PHONE NUMBER: 404-371-3054

Deferred 9/28/10 and 11/16/10

PURPOSE:

To enact an ordinance which allows for interior inspection of multi-family rental units

NEED/IMPACT:

Decline in the integrity of multifamily rental units has a negative impact on the public, including secondary effects of increased crime in these areas and increases the rate of deterioration and of property values. This ordinance provides for inspection of interior premises by certified code compliance inspectors. Fees driven by the cost of the inspection will be collected.

RECOMMENDATION(S):

Defer full cycle

## **AN ORDINANCE**

### **AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 15, PERTAINING TO CODE COMPLIANCE CERTIFICATES AND FOR OTHER PURPOSES.**

**WHEREAS**, the Governing Authority of DeKalb County is tasked with the protection of the County's public health, safety, and general welfare; and

**WHEREAS**, O.C.G.A. § 8-2-25(a) provides for state-wide application of certain state minimum standard codes and local enforcement of these codes; and

**WHEREAS**, O.C.G.A. § 8-2-25(b) and (c) provide for the local adoption and enforcement of other state minimum standard codes and allow for the local adoption of more stringent codes based on public safety factors; and

**WHEREAS**, the Governing Authority of DeKalb County has adopted all the state minimum codes, and the adoption is codified as Chapter 7, Article II, Division 3 of the Code of DeKalb County; and

**WHEREAS**, the Governing Authority of DeKalb County has further determined that a decline in the integrity of multifamily rental units has a negative impact on the public, including the secondary effects of increased crime in these areas and deterioration of property values; and

**WHEREAS**, O.C.G.A. § 8-2-26 allows for the adoption of any reasonable provisions for the enforcement of the state minimum standard codes and provides for inspections of buildings or similar structures to ensure compliance with the state minimum standard codes; and

**WHEREAS**, O.C.G.A. § 48-13-6 provides for the levy, assessment, and collection of occupation taxes on those businesses and practitioners of professions and occupations which have locations within a county; and

**WHEREAS**, O.C.G.A. § 48-13-5 provides that renting or leasing real property to another at a site within the unincorporated parts of a county is an occupation, profession, or business; and

**WHEREAS**, the Governing Authority of DeKalb County recognizes the inherent dangers of residing in buildings or structures that do not meet the state minimum standard codes and further recognizes a lessee's or tenant's right to privacy; and

**WHEREAS**, landlords, owners, lessors, or agents of landlords, owners, or lessors have the duty, under O.C.G.A. § 44-7-13 and cases such as *Thompson v. Crownover*, 259 Ga. 126, 381 S.E.2d 283 (1989), to keep rental premises in repair; and

**WHEREAS**, the Governing Authority of DeKalb County recognizes that buildings or structures deteriorate with the passage of time and require periodic repairs; and

**WHEREAS**, the Governing Authority of DeKalb County has determined that protection of the health, safety, and welfare of the citizens of DeKalb County requires that property being rented or leased meet the state minimum standard codes.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Authority of DeKalb County, Georgia, that Chapter 15 of the Code of DeKalb County, Georgia, is amended to read as follows:

#### **PART I. ENACTMENT**

*Chapter 15 is amended by adding Sections 15-425 through 15-499 reserved, to read as follows:*

**Secs. 15-425—15-499. Reserved.**

*Chapter 15 is amended by adding Article XIII, Sections 15-500 through 503, to read as follows:*

## **Article XIII. Multifamily Rental Dwellings**

### **Sec. 15-500. Definitions.**

For the purpose of this article, certain terms and words are defined. Where words have not been defined, but are defined in section 1-2, those words shall have the meaning defined therein. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them as directed below, except where the context clearly indicates a different meaning:

*Certified building inspector* means a person who has been authorized to perform inspections pursuant to the process established by this article, provided that such person maintains the qualifications for certification as established by this article.

*Code compliance certificate* means a certificate, in a form authorized by the chief executive officer or his/her designee, executed by a certified building inspector showing compliance with those minimum requirements described in the inspection report attached thereto.

*Inspection report* means the report attached to the code compliance certificate describing minimum requirements for inspection of each unit.

*Lease* means any written or oral agreement that sets forth any and all conditions concerning the use and occupancy of multifamily rental dwellings or multifamily rental units.

*Multifamily rental dwelling* means any multifamily structure, multifamily building, or other facility that is leased to a residential tenant or tenants for use as a home, residence, or sleeping unit. This definition includes, but is not limited to, multifamily dwellings, multifamily apartments, duplexes, boardinghouses, roominghouses, group homes, and flats.

*Multifamily rental unit* means any one area, room, structure, flat, apartment, or facility of a multifamily rental dwelling that is leased or available for lease to an occupant.

*Occupant* means any person who is a tenant, lessee, or a person residing within a multifamily rental dwelling or multifamily rental unit.

*Owner* means any person, agent, firm, or corporation having a legal or equitable interest in a premises.

*Premises* means any lot or parcel of real property on which exists one or more multifamily rental dwellings or multifamily rental units.

**Sec. 15-501. Certification process, requirements, forms and appeals.**

- (a) *Process.* The chief executive officer or his/her designee shall create the process for certifying building inspectors, shall establish the requirements and application for becoming a certified building inspector, and shall administer the process. A non-refundable administrative fee set by the board of commissioners shall be required to be submitted with all applications to be a certified building inspector. Persons who have successfully completed the certification process issued by the chief executive officer or his/her designee shall be designated as certified building inspectors authorized to perform the inspections required by this article.
- (b) *Code compliance certificates and inspection reports.* The chief executive officer or his/her designee is authorized to create the forms for code compliance certificates and inspection reports. At a minimum, inspection reports submitted to the county must contain the certified building inspector's signature and date of certification. A certified building inspector shall personally perform the inspections required by this article. The certified building inspector signing the inspection report and performing the inspection shall not be an employee of, otherwise related to, or affiliated in any way with any owner or occupant of the multifamily rental dwelling or multifamily rental dwelling unit being inspected. Failure to have a certified building inspector personally perform an inspection shall nullify any such code compliance certificate.
- (c) *Certified building inspectors.*
  - (1) *Minimum requirements.* At a minimum, a certified building inspector shall be a licensed architect or engineer or shall hold one of the following certifications from the International Code Council: property maintenance and housing inspector, housing rehabilitation inspector, building inspector, building plan examiner or commercial combination inspector.
  - (2) *Denial of certification.* Upon receipt of a complete application to be a certified building inspector, the chief executive officer or his/her designee shall have 45 days to grant or deny the application. If denied, the chief executive officer or his/her designee shall notify the applicant in writing of the reason(s) for the denial at the address set forth on the application.
  - (3) *Revocation of certification.* Upon a certified building inspector's conviction of a violation of section 15-503(c) of this article, or if a certified building inspector no longer meets the minimum requirements set forth in this article, the chief executive officer or

his/her designee shall revoke the authority of that individual to act as a certified building inspector. The chief executive officer or his/her designee shall notify the individual in writing of the reason(s) for the revocation at the address set forth on the application to be a certified building inspector.

- (4) *Appeals.* Any applicant or certified building inspector who believes the provisions of this article have been applied in error may appeal in the following manner:
  - (a) A writing identifying the ground(s) for appeal must be filed with the executive assistant within thirty (30) days after the date of the decision for which review is sought.
  - (b) The executive assistant shall review the appeal and respond in writing within thirty (30) days by either affirming or reversing the decision for which review is sought.
  - (c) A decision of the executive assistant under this article may be appealed by application for writ of certiorari in the Superior Court of DeKalb County filed within thirty (30) days of the decision.

**Sec. 15-502. Inspection, certificate and fee required.**

- (a) *Code compliance certificate.* A code compliance certificate shall contain the certification of a certified building inspector that all multifamily rental dwellings and/or multifamily rental units subject to this article have been inspected within the 12-month period immediately preceding the date of certification and are in compliance with applicable provisions of the Code and the requirements set forth in the code compliance certificate and inspection report.
  - (1) Commencing on January 1, 2012, all owners of multifamily rental dwellings and/or multifamily rental units within the unincorporated parts of the county that receive income from four or more such units and meet the requirements of O.C.G.A. § 48-13-5 for having a location or office within the unincorporated parts of the county shall file, simultaneously with their business occupation tax return, code compliance certificate(s) covering 100 percent of the owner's multifamily rental units located within the unincorporated parts of the county.
  - (2) After submission of the initial code compliance certificate(s), owners shall submit code compliance certificates annually with their business occupational tax return. Each subsequent code

compliance certificate shall show an internal and external inspection of at least 20 percent of the units on a premises and all units on a premises shall be inspected, at a minimum, every five years. All units inspected shall be listed individually on the code compliance certificate submitted by the certified building inspector.

- (b) *Fee.* A non-refundable administrative fee set by the board of commissioners shall be required to be submitted with all code compliance certificates.
- (c) *Inspections and repairs.* Upon initial inspection of multifamily rental dwellings and multifamily rental units subject to this article, should a certified building inspector determine that further work is necessary to comply with the minimum standards set forth in the Code, an acceptable plan shall be submitted to the building official, outlining the time and scope of work necessary to bring the units into compliance. If the plan is accepted by the building official as reasonable and justified, an extension of the time for compliance with this article may be granted for up to one year so that necessary repairs may be completed. No extension shall be granted if life or safety issues are involved, and none of the units where life or safety issues are involved shall be leased until brought into compliance with the minimum standards set forth in the Code. For years subsequent to the initial year, the one year extension for repairs is not available.
- (d) *Written record of inspection.* Each owner and certified building inspector shall for a period of five years from the date of inspection keep a written record of inspection for each multifamily rental dwelling and/or multifamily rental unit, including the date of the inspection, items inspected, and all violations, if any, observed. These records shall be presented to the building official within ten business days after a request is made in writing to the owner or inspector. Failure to provide these records shall nullify the code compliance certificate for such dwellings or units.
- (e) *Exemptions.* Provided all other required permits, certificates and/or permissions are obtained from the county, this section shall not apply to multifamily rental dwellings or multifamily rental units for a period of five years following issuance of a certificate of occupancy for such dwelling or unit.

#### **Sec. 15-503. Violations.**

- (a) No business occupation tax certificate shall be issued to any owner until the owner provides the county with a code compliance certificate in the form and manner required by this article.

- (b) Any person who does anything prohibited or fails to do anything required by this article, upon conviction of the violation in a court of competent jurisdiction, shall be subject to fine and/or imprisonment in accordance with section 1-10.
- (c) An owner who knowingly furnishes or participates in furnishing a code compliance certificate to the county falsely certifying that all multifamily rental dwellings or multifamily rental units inspected are in compliance with the requirements set forth in the code compliance certificate shall be guilty of a violation of this article for each multifamily rental dwelling or multifamily rental unit for which the certification is shown to be false.
- (d) A certified building inspector who knowingly furnishes or participates in furnishing an inspection report containing false information that a multifamily rental dwelling or multifamily rental unit meets the minimum housing standards of the county as shown by the inspection report shall be guilty of a violation of this article.

## **PART II. EFFECTIVE DATE**

This ordinance becomes effective upon its adoption by the Board of Commissioners and approval by the Chief Executive Officer.

## **PART III. SEVERABILITY**

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, this decision will not affect the validity of the ordinance as a whole, nor any part of it, other than the part declared to be invalid or unconstitutional. All ordinances or resolutions, or their parts, in conflict with this ordinance are repealed.

**ADOPTED** by the DeKalb County Board of Commissioners, this \_\_\_\_ day of \_\_\_\_\_, 2009.

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**LARRY L. JOHNSON, MPH**  
Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia



**APPROVED** by the Chief Executive Officer of DeKalb County, this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
**W. BURRELL ELLIS, JR.**

Chief Executive Officer  
DeKalb County, Georgia

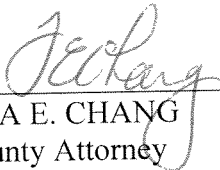
**ATTEST:**

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BARBARA H. SANDERS, CCC  
Clerk to the Board of Commissioners and  
Chief Executive Officer  
DeKalb County, Georgia

**APPROVED AS TO SUBSTANCE:**

\_\_\_\_\_  
JONATHAN A. WEINTRAUB  
Deputy Chief Operating Officer  
Development Group

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
LISA E. CHANG  
County Attorney  
DeKalb County, Georgia

\_\_\_\_\_  
JOEL GOTTLIEB  
Interim Director of Finance